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Chair: Sir Nigel Rodley (Vice-Chair)

Contents

General comments of the Committee

Draft general comment No. 34 on article 19 of the Covenant (*continued*)

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In the absence of Mr. Iwasawa, Sir Nigel Rodley, Vice-Chair, took the Chair.

The meeting was called to order at 10.15 a.m.

General comments of the Committee

Draft general comment No. 34 on article 19 of the Covenant (CCPR/C/34/CRP.2) (*continued*)

1. **Mr. O'Flaherty**, Rapporteur for draft general comment No. 34, reminded members that, at its previous session, in October 2009, the Committee had begun its first reading of the draft general comment, which it had taken up to paragraph 9 inclusive. The text before them was largely the same, with a few changes to paragraphs 1 to 9 reflecting the Committee's discussions, and some minor adjustments and corrections to the remaining paragraphs. One sentence, proposed by Mr. Amor, had been omitted inadvertently from paragraph 2. After the words "They are essential for any society.", members should insert: "They constitute the foundation stone for every free and democratic society."

2. The sources for the draft included General Comment No. 10, which it would replace, other General Comments, and relevant views and case law of the Committee, together with its concluding observations, a large number of which were directly relevant to article 19. The section entitled "Freedom of opinion" (paragraphs 9 and 10), which related to paragraph 1 of article 19, was relatively short, like the corresponding section in General Comment No. 10; that was because there was not much to be said on the subject; moreover, some of the issues involved had already been addressed under "General remarks" (paragraphs 1-8).

3. **Mr. Thelin** requested the tracking of all the changes made to the draft text following the Committee's deliberations.

4. **Mr. Amor** expressed surprise that a new paragraph which he had previously proposed, to be numbered 9 bis, did not appear in the document under consideration. He recalled the proposed wording: "Everyone shall have the right to hold opinions without interference. Any reference to an individual's political, religious or other opinions in the files kept by agents of the public or private sector is not acceptable. Furthermore, any reference to an individual's political, religious or other opinions in identification documents is incompatible with article 19, paragraph 1." Had it not been agreed that the proposed new paragraph should be included?

5. **Mr. O'Flaherty** said that the summary record of the previous meeting on the subject (CCPR/C/SR.2678) contained no indication that Mr. Amor's proposal had been accepted.

6. **Ms. Keller** said that her own notes from that meeting confirmed the summary record.

7. **Ms. Chanet** said that, apart from the fact that the first sentence of the proposed new paragraph was redundant since it reproduced article 19, paragraph 1, of the Covenant, she had no objection to it. However, it might more appropriately be placed in another section; that could be decided after all the sections had been considered. It was in line with contemporary European data protection laws.

8. **Mr. Thelin** said that, while he did not object to the proposal, it might perhaps be inserted in paragraph 10, as its tenor was close to that of the last sentence of that paragraph.

9. **The Chair** asked Mr. Amor to submit his proposal in writing for discussion at a subsequent meeting.

10. **Mr. O'Flaherty** supported Mr. Thelin's suggestion, as that would offer a means of attaching the proposed new text to the Committee's related jurisprudence, namely, *Kang v. Republic of Korea*.

Paragraph 10

11. **Ms. Chanet** said that the meaning of the word "normal" in the first sentence was not clear. Moreover, since it was difficult to establish exactly how far it was permissible to seek to influence personal opinion, she proposed that the first sentence and the word "However" at the beginning of the second should be deleted.

12. **The Chair** said that he took it that the Committee agreed to that deletion. Speaking in his capacity as an expert, he said that, while article 17 was referred to in General Comment No. 22 on article 18, it was debatable whether it should also be attached to article 19. He proposed the following wording for the last sentence of the paragraph: "Since freedom to express one's opinions necessarily includes freedom not to express one's opinions, article 19, paragraph 1,

prohibits any action to compel the disclosure of an opinion."

13. **Mr. O'Flaherty** said that the question of freedom not to express one's opinions was covered elsewhere in the draft and that its compatibility with the Chair's proposal should be checked later. Otherwise, he had no objection.

14. **Mr. Amor** said that equally important examples could be cited of attempts to influence opinions, in addition to the prisoners example, which should therefore be either removed or supplemented.

15. **Mr. Lallah** said that he supported the proposed new wording of the last sentence. Moreover, it was useful to have a statement backed by a case, namely the *Kang* case, since, as had always been recognized by the Committee, the strength of its General Comments derived from its jurisprudence.

16. **Mr. Rivas Posada** said that he also agreed to the new wording. With regard to the preceding sentence, he wondered whether more appropriate and, particularly, more frequently occurring examples could be found of attempts to influence opinions, rather than the example concerning prisoners.

17. **Mr. O'Flaherty** said that the examples cited, which were sometimes eccentric, were dictated by the topics actually dealt with by the Committee. He was open to other suggestions.

18. **The Chair** stressed the paradigmatic nature of the issue. Prisons, by their rehabilitative function, were designed to influence behaviour and opinions, particularly, for instance, a belief in an unfettered right to steal. In the *Kang* case, which was at the opposite extreme, the State had used pressure to change not behaviour but opinions. It would be useful to have other jurisprudence.

19. **Mr. Amor** said that the purpose of the proposed general comment was to determine the meaning and scope of article 19, which did not need to be based on jurisprudence alone; it could be enough to refer just to the article itself. He therefore proposed the deletion of the reference to the *Kang* case. Coercion was a well-nigh universal reality: it included aggressive proselytism and offers of visas, money and jobs made by groups, sometimes backed by the State, to induce people to change religion. It should be addressed more fully in the draft text.

20. **Mr. O'Flaherty** suggested that footnote 15 could be attached to the sentence "Any form of coerced effort to shape opinion is prohibited", which covered both the coercion of prisoners and religious coercion, and the following sentence could then be deleted.

21. **Mr. Amor** said that he agreed, while noting that, since the Committee was still at its first reading, he might wish to revert to the matter.

22. *Paragraph 10, as amended, was approved.*

Paragraphs 11-13

23. **Mr. O'Flaherty** said that it might be helpful, for reasons of logic, to invert paragraphs 12 and 13.

24. **The Chair**, while taking it that the Committee agreed to the inversion, said that the paragraphs would be dealt with and referred to in their current order in the draft.

25. **Mr. Fathalla** said that he was not happy with the formulation that the scale of the offence caused did not affect the scope of paragraph 2 of article 19.

26. **The Chair** said that the problem was that the word "offence", which was clearly to be understood in the sense of "insult" in paragraph 11, could also mean "crime".

27. **Ms. Majodina** said that the reference in the second sentence to "elsewhere in the Covenant" was too vague and would not be understood by the average reader. In the third sentence, she proposed that "It includes political discourse" should be amended to read "It includes but is not limited to political discourse".

28. **Mr. Thelin** said that he supported retaining the penultimate sentence of the paragraph, although he was not against changing the word "offence" to avoid confusion.

29. **Ms. Chanet** proposed replacing the word "protection" with the word "guarantee" throughout paragraph 11. Furthermore, article 20 referred to prohibitions, not mere limitations; the wording of the paragraph should be modified accordingly. She also suggested adding the phrase "regardless of frontiers" at the end of the first sentence, as per the wording of article 19, paragraph 2, of the Covenant.

30. **Mr. Amor** said that he supported the proposal to include the phrase "regardless of frontiers". However,

he objected to the reference to the case of *Ballantyne et al. v. Canada*, as it drew unnecessary attention to commercial advertising . If the reference must stay in, he proposed that non-deceptive advertising should be specified.

31. **Mr. Bouzid**, noting that paragraph 11 did not refer to freedom of speech, wondered if it might not be useful to distinguish it from freedom of expression.

32. **Mr. O'Flaherty** explained that such differentiation was made in paragraph 13; paragraph 11 merely represented a typology of ideas. Turning to the other members' proposals, he agreed that the word "guarantee" should replace the word "protection" and that the phrase "regardless of frontiers" should be added at the end of the first sentence. Specific reference to non-deceptive commercial advertising was unnecessary, as such limitations were covered by article 19, paragraph 3, of the Covenant. In any case, paragraph 11 of the draft general comment did not seek to endorse the types of expression listed, but rather to illustrate the vast scope of freedom of expression. If the Committee nevertheless preferred to delete the reference to *Ballantyne et al. v. Canada*, it should also endorse Ms. Majodina's proposal to include the words "but is not limited to" after the phrase "[i]t includes" in the third sentence and should delete the word "commercial". With regard to the second sentence, making explicit reference to all possible limitations contained in the Covenant would be difficult. He therefore suggested simply deleting the phrase "and elsewhere in the Covenant".

33. The penultimate sentence in paragraph 11 could be read only together with the last sentence. It was crucial to indicate that the scope of the right of freedom of expression was unlimited, no matter how outrageous the opinion expressed. The last sentence acted as a filter through which all forms of expression must pass. He suggested combining the last two sentences by inserting the word "albeit" after the phrase "the scale of offences caused".

34. **Mr. Lallah** questioned the relevance of the phrase "regardless of the scale of offence caused" in the penultimate sentence and suggested its deletion.

35. **Ms. Keller** said that she supported combining the last two sentences, but requested clarification on the use of the word "offence" therein.

36. **Mr. Fathalla** said that he supported merging the last two sentences of the paragraph, as well as the deletions of the phrase "regardless of the scale of offence caused" and of the word "only". He, too, would like clarification as to the word "offence".

37. **The Chair** said that if the phrase "regardless of the scale of offence caused" were deleted, it would be clear that the word "offensive" referred to "insult" and not "crime" in the present context. Speaking in his capacity as an expert, he said that if the deletion was agreed to, the last two sentences should not be merged, since the last sentence of the paragraph, as he understood it, did not refer just to the penultimate sentence, but to the paragraph as a whole.

38. **Mr. Thelin** said that while he supported combining the last two sentences of the paragraph, he was reluctant to delete the phrase "regardless of the scale of offence caused", because it gave a sense of the scope of the freedom of expression, which was unlimited but for the exceptions contained in article 19, paragraph 3, and article 20 of the Covenant. If the consensus was in favour of deletion, he had no objection to maintaining the last two sentences separate, but he suggested strengthening the penultimate sentence by replacing the words "may be" with the word "are".

39. **Ms. Majodina** endorsed the proposed deletion of the phrase "and elsewhere in the Covenant" in the second sentence.

40. **Mr. O'Flaherty**, on the subject of the word "offence", said that he agreed with the points made by the Chair. However, if the phrase "regardless of the scale of offence caused" were deleted, so too would be the footnote referring to *Ross v. Canada*, which, as a case on anti-Semitism, sent an important signal that no form of expression was excluded from consideration under article 19; he would therefore prefer to maintain that phrase if possible. He did not object to combining the last two sentences, since the last sentence, as it had been drafted, meant to refer only to the penultimate sentence.

41. **Mr. Amor** reiterated his strong support for deleting the reference to commercial advertising. As for the last two sentences of the paragraph, he proposed merging them as follows: "The scope of paragraph 2 embraces even views that may be regarded as offensive, albeit all expression may only be limited

in accordance with the provisions of article 19, paragraph 3, and article 20".

42. **Ms. Chanet** said that while she took Mr. O'Flaherty's point against deletion of the phrase "regardless of the offence caused", the issue might be resolved by adopting Mr. Amor's proposed wording for the merging of the last two sentences with the addition of the word "deeply" for emphasis before the word "offensive".

43. **Mr. Fathalla** said that he supported the wording proposed by Mr. Amor, including the retention of the word "offensive", although he reserved the right to return to the subject of that specific word's appropriateness vis-à-vis the language used in articles 19 and 20 of the Covenant, especially the word "morals".

44. **The Chair** said that based on the Committee's discussion, he took it that the last two sentences of paragraph 11, as merged and amended, should read, "The scope of paragraph 2 embraces even views that may be regarded as deeply offensive, albeit such expression may be limited in accordance with the provisions of article 19, paragraph 3, and article 20."

45. **Mr. Lallah** suggested that the word "only" should not be deleted in the final merged sentence.

46. **The Chair** said that he had understood there to be consensus on that deletion.

47. **Mr. Amor** expressed concern that some of his proposed wording had been omitted in the merging of the last two sentences of the paragraph. Indeed, the word "all" should replace the word "such" immediately before the word "expression" to emphasize that all forms of expression, and not just offensive ones, were subject to the limitations set out in articles 19 and 20.

48. **Mr. Fathalla** wondered if the words "may be" might not be replaced with stronger language, such as "shall".

49. **The Chair** pointed out that "may be" was the wording used in article 19, paragraph 3, of the Covenant: article 19, unlike article 20, did not refer to obligations and therefore used more permissive language.

50. **Mr. O'Flaherty** endorsed the Chair's explanation for the use of the words "may be". As for the suggestion to replace the words "such expression" with the words "all expression", he said that the emphasis on "all" forms of expression was unnecessary, as the sentence dealt only with unpleasant forms of expression. Limitations on freedom of expression were covered beginning in paragraph 21 of the draft general comment. In response to Mr. Lallah's concern, he said that deleting the word "only" did not change the sentence significantly: the Committee was thus able to underline the importance of applying articles 19 and 20, without overlooking other articles of the Covenant that also limited freedom of expression.

51. **Mr. Lallah** said that he supported deleting the word "only".

52. **The Chair**, summarizing the proposed changes to the first two sentences of paragraph 11, suggested that the end of the second sentence might be changed to read "subject to the permissible limitations in article 19, paragraph 3, and the prohibitions of article 20", in order to address a concern raised previously by Ms. Chanet.

53. **Mr. O'Flaherty** said that there was no difference in referring to "provisions" or "prohibitions" in relation to article 20.

54. **Mr. Fathalla** suggested either using "provisions" for both articles 19 and 20, or using "limitations" for article 19 and "prohibitions" for article 20.

55. **The Chair** suggested that to resolve the difficulty between the words "prohibitions" and "limitations", the text should simply refer to the "provisions" of articles 19 (3) and 20. The suggestion to say the right "includes but is not limited to" seemed acceptable to all the Committee members, but the concerns about commercial advertising had still not been addressed successfully.

56. In the *Ballantyne* case, the Committee had reached the right conclusion by referring to commercial speech instead of adopting the line that protection of language rights had to respect other people's rights as well. Although it seemed out of place in the paragraph, commercial speech was still part of the Committee's case law.

57. **Mr. Thelin** said that it was therefore preferable to include the reference to commercial advertising in the paragraph.

58. **Mr. O'Flaherty** proposed deleting it, particularly in the light of the proposed change to say that the right of freedom of expression "includes but is not limited

to". The *Ballantyne* jurisprudence would not be lost from the General Comment and commercial speech would still be protected, given that the list was indicative and not exhaustive.

59. **Mr. Lallah** said that he agreed, but noted that *Ballantyne* had not been about advertising at all. It had been about some Quebec shop owners who had tried to put up their commercial sign in English at a time when only French signs were allowed. In any event, it did not matter whether the reference was retained or deleted, because commercial speech would still be covered elsewhere in the discussion.

60. **The Chair**, with deference to Mr. Lallah, who had been on the Committee at the time of the *Ballantyne* decision, said that the expression "commercial speech" had actually been used in *Ballantyne*.

61. **Mr. O'Flaherty** explained that the paragraph was not saying that freedom of expression should be applied to commercial speech, but was only indicating the typologies of ideas and opinions that could be protected. In any case, almost every member of the Committee, except the Chair, had agreed to delete the reference to commercial advertising.

62. **The Chair** reiterated that, even though he did not feel particularly strongly either way, he was not the only one who was against the deletion.

63. **Ms. Keller** confirmed that she was against the deletion because the express reference to commercial advertising helped clarify the issue for countries which, like her own, did not consider commercial advertising a form of free speech.

64. **Mr. Lallah** said that the reference should be kept at least for the first reading, subject to deletion at the second reading if necessary.

65. **Mr. Amor** said that if the Committee insisted on including the words, then they should be put in square brackets.

66. **The Chair** said that the Committee would leave that issue in abeyance and return to it subsequently.

67. *Paragraph 11 pertaining to article 19 of the Covenant was approved, subject to drafting changes.*

The meeting was suspended at 11.55 a.m. and resumed at 12.10 p.m.

Paragraph 12

68. **Mr. O'Flaherty**, introducing paragraph 12, explained that it contained a combination of jurisprudence and linguistic rights, specifically those spelled out in article 27. It was not uncommon for general comments to include items which might seem extraneous, but were relevant for expressing the dimensions of a right.

69. **Mr. Bouzid** wondered why paragraph 12 referred only to official languages, whereas many States had one or more official languages as well as one or more national languages.

70. **Mr. O'Flaherty** said that he agreed to refer to national languages as well as official languages.

71. **The Chair** asked Mr. Bouzid to explain the difference between the two.

72. **Mr. Bouzid** said that in his country, for example, Arabic was the official language, while Amazigh was a national language.

73. **Mr. El-Haiba** said that, with regard to national and official languages, certain geographical areas had many national languages, but only one official language that was used in public administration and was protected by the State.

74. **Mr. Lallah** confirmed that explanation, citing Senegal and India as typical examples.

75. **The Chair** took it that the Committee agreed to include the reference to both national and official languages in the paragraph.

76. *Paragraph 12 pertaining to article 19 of the Covenant was approved, as amended.*

Paragraph 13

77. **Mr. O'Flaherty**, introducing paragraph 13, explained that it concerned the medium of expression rather than the form of expression. The list was derived from the Committee's own practice, as indicated in the footnotes. While Committee members might find some of the items self-evidently important, such as books and the Internet, they might find others odd, such as the reference in the penultimate sentence to the choice of clothing or the wearing or carrying of a religious or other symbol. While members might find that *Hudoyberganova v. Uzbekistan* was an article 18 case

that did not give rise to what might be considered a form of expression, it was in fact relevant to article 19.

78. The hunger strike case of *Baban v. Australia* had been considered inadmissible, yet it was included under article 19, because the Committee had not rejected outright the idea of a hunger strike being a form of expression. The Committee had therefore acknowledged that political and other statements could be made through actions rather than words, and that such actions could be protected under article 19.

79. Finally, the last sentence included a reference to *Zundel v. Canada*, a case where a Holocaust-denying journalist had been refused the right to hold a press conference. It was included in the paragraph because it was part of the Committee's jurisprudence and had to be included somewhere.

80. **Mr. Fathalla** suggested that it could be included in the first sentence, with the addition of the word "strike" to the forms of expression, which would cover hunger strikes. Turning to the penultimate sentence, he said it should be deleted, because it referred to clothing and the wearing of symbols which, while representing some form of expression, could not be justified for inclusion in the paragraph.

81. **Mr. Rivas Posada** suggested removing from the same sentence the expression "depending on the particular circumstances", to avoid any confusion as to the circumstances in question.

82. **Mr. Amor** said that he did not understand the reference to court pleadings. He proposed the elimination of all references to all matters related to clothing.

83. **Ms. Majodina** said that, like Mr. Rivas Posada, she had questions about the phrase "depending on the particular circumstances". Attempts to clarify it might only make the paragraph clumsier. If it was a reference to the Committee's past recognition of the margin of appreciation or cultural context issues involved in article 19 of the Covenant, it must be clearly stated that it was for the Committee to determine. The phrase should perhaps be taken out.

84. **The Chair** noted that with very few exceptions, the Committee had refrained from using the margin of appreciation concept. In that regard, the Committee had not followed the European Court of Human Rights.

85. **Ms. Chanet** said that she strongly agreed that all references to clothing should be eliminated. Court pleadings had been covered elsewhere, in article 14. The reference should be explained or else removed. Not everything could be included, and the reference was reductive.

86. **Mr. Thelin** said that the penultimate sentence was a source of concern. He read it as a neutral description of the jurisprudence of the Committee. However, if colleagues were concerned about the wording, it could be redrafted to end with the phrase "other forms of expression", followed by a full stop, with the footnoted references retained. If "hunger strike" was changed to "strike", the reference to jurisprudence would be lost, and the paragraph would wander into realms which came under article 22.

87. **Mr. O'Flaherty** said that he believed that clothing could be a form of expression, but it was not necessary to fight for the sentence here. Where there was a reference to spoken and written expression in the second sentence, the words "include but are not limited to" could be used, followed by a list.

88. The reference to court pleadings should be taken out, and the footnote should be retained. The penultimate sentence of the paragraph should be eliminated. The reference to the *Fernando v. Sri Lanka* case should be retained. The references to *Hudoyberganova v. Uzbekistan* and *Baban v. Australia* could be eliminated, as the former came under article 18 and the latter was a weak admissibility decision. The Committee should use the formula proposed by Ms. Majodina to make clear that the list in the second sentence was an open one. The penultimate sentence could be deleted, which would resolve the questions about the phrase "depending on the particular circumstances" and about the issue of strikes or hunger strikes.

89. **Mr. Lallah** welcomed the suggestion to eliminate the penultimate sentence, as well as the sentence "They may also include court pleadings." The issue was better dealt with under article 14.

90. **Ms. Keller** noted that if the reference to court pleadings was removed while footnote 35 was retained, the main text and the footnote would no longer correspond.

91. **Mr. O'Flaherty** said that after the second sentence containing the list of forms of expression, the

various references could be grouped together in a single footnote, with the phrase "et al." added at the end.

92. **The Chair** asked where the superscript for footnote 35 would appear in the text.

93. **Ms. Keller** said that some information would be lost if all references were placed in a single footnote. Such a change was nonetheless acceptable to her.

94. **Mr. Rivas Posada** said that it was not necessary to clarify whether all pleadings were being referred to or just allegations. The reference was to pleadings made by the lawyers who were being protected. That was closely linked to the contents of the footnote.

95. **The Chair** said that *Fernando v. Sri Lanka* was a very important case, involving a lawyer sentenced to contempt of court for vigorous assertion of client interests. It was an article 19 issue, not just an article 14 issue.

96. **Mr. O'Flaherty** said that the reference to court pleadings was causing problems. They could be called "legal submissions and other written materials" and that phrase could go at the end of the second sentence. "Legal submissions" would be a direct reference to the *Fernando v. Sri Lanka* case.

97. **The Chair** said that the term "written materials" would rule out equally important oral pleadings.

98. **Mr. Thelin** said that if Mr. O'Flaherty's proposal was adopted and the word "publication" remained in the third sentence, it might be misleading.

99. **The Chair** said that the word "publication" was understood to mean the emission of words either in writing or orally.

100. **Mr. O'Flaherty** proposed deleting the phrase "publication of" so that the beginning of the sentence would read "Means of expression include". The sentence should end with the phrase "legal submissions". It was already clear that the list included but was not limited to the elements mentioned.

101. **The Chair** said that it appeared that there was no dissent from that solution. The issue of attire as a method of expression was connected to article 18 and other articles of the Covenant. He was willing to go along with the loss of relevance of choice of clothing, although he found it hard to accept that choice of clothing might not be a protected form of expression under article 19. The penultimate sentence would be deleted. The second sentence would begin, "Such forms would include but are not limited to". The third sentence would begin with the phrase "Means of expression include", and the list in that sentence would conclude with "banner and legal submissions", with a footnote to *Fernando v. Sri Lanka*. "And other signage" would be deleted. "They may also include court pleadings" would also be deleted. "They include all forms of audio-visual as well as electronic and internet-based media" would be retained.

102. *Paragraph 13, as amended, was approved.*

Paragraph 14

103. **Mr. O'Flaherty** recalled that paragraphs 12 and 13 were being inverted. Introducing the section entitled "Freedom of expression and the media", paragraphs 14 through 16, he said that the next three sections had to do with establishing the scope of the right, meaning that the Committee was not yet working on the section on limitations. Issues of freedom of expression and the media were dominant concerns, receiving considerable attention from the Committee. The range of media-related challenges to freedom of expression encountered by the Committee was quite broad. Focused attention must be paid to media expression in the general comment. The section being examined contained affirmative statements on the space for media freedom. Restrictions were dealt with later.

104. **Mr. Amor** requested clarification as to what was meant by the word "vigorous" in the last sentence of paragraph 14. Reference should be made to media concentration and monopolies, which often limited freedom of the press and freedom of expression. He proposed the phrase "... and take the appropriate measures to avoid concentration and monopoly that would affect freedom of the press and freedom of information".

105. **Mr. Rivas Posada** said that the word "vigorous" must be deleted. It was not clear whether the vigour referred to was economic or intellectual.

106. **Ms. Chanet** said that she agreed with Mr. Amor regarding the word "vigorous". Paragraph 14 had to do with ensuring freedom of expression in the press, linking that to the rights of citizens. Perhaps the question of monopolies could be dealt with later in the text. The reference to General Comment No. 25 should be placed in a footnote so as not to break the flow of

the paragraph. There should be a sentence on the need for citizens' representatives to have access to independent information.

107. **Mr. Fatallah** said that the first sentence of paragraph 14 should draw a direct link between a free and uncensored press and the Covenant rather than between a free and uncensored press and a democratic society. The emphasis should be on the Covenant. The reference to a democratic society should be deleted.

108. **Mr. O'Flaherty** said that the mention of a democratic society, which was a time-honoured reference to a strong piece of jurisprudence, seemed troublesome for some colleagues. In any case, the introduction to the general comment already contained a reference to a democratic society. He had no objection to Mr. Fatallah's suggestion and proposed that the sentence should be changed to something along the following lines: "A free and uncensored press or media is essential for the ensuring of freedom of opinion and expression."

109. Paragraph 40 contained a strong statement on media monopolies. The word "vigorous" was unnecessary and could be removed. The reference to General Comment No. 25 could be moved to a separate paragraph.

110. **Mr. Thelin** said that he was saddened by the removal of the reference to democratic societies. There was a reference to democratic societies in paragraph 2, and the reference in paragraph 14 had to do with a component of that, i.e., a free press and media. It reinforced paragraph 2 and should be left in.

111. **The Chair**, speaking in his capacity as an expert, said that monopolies and concentrations in the media were important issues. The reference in the current text to the obligation of States parties to foster independent and diverse media was, in fact, a positive way of making the point about the problems of monopolization. He was willing to see a text dealing more specifically with the issue, along the lines of what Mr. Amor had proposed. Like Ms. Chanet, he would like to see it express what States must do to address the issue. That might belong in a later part of the text.

112. **Mr. Amor** said that in the French version of the general comment, the words "sans censure" in the first sentence of paragraph 14, rendered in English as "uncensored", should be replaced by "sans entrave", meaning "unimpeded". That would cover censorship as well as other obstacles to a free press. The reference to a democratic society seemed to say that a free press was important to democracies only, while undemocratic countries did not need a free press. In fact, all societies needed a free press.

113. He proposed that in the first sentence the phrase "in a democratic society" should be replaced with "in any society". Following that, a new sentence should be inserted, to read, "It constitutes a foundation of democratic society."

The meeting rose at 1 p.m.